IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

WP(C).No. 13604 of 2005(T)

PETITIONER:

THANKAMMA JOSEPH, NADAKKAL ENTERPRISES,
DESOM P.O., PURAYAR, ALUVA.

BY ADV. SRI.SERGI JOSEPH THOMAS

RESPONDENTS:
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1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS CHAIRMAN, VAIDYUTHI BHAVAN,
THIRUVANANTHAPURAM.

2. THE ASSISTANT EXECUTIVE ENGINEER
KERALA STATE ELECTRICITY BOARD, CHENGAMANADU,
ALUVA.

3. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION, K.S.E.B., ATHANI, ALUVA.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 13604/2005 T

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE BILL DTD. 15/4/2005 BY THE R3 TO THE PETITIONER.

EXT.P2. COPY OF THE APPEAL ALONG WITH DETAILED STATEMENT REGARDING THE CONSUMPTION OF ELECTRICITY FILED BY THE PETITIONER BEFORE THE R2 ON 27/4/05.

EXT.P3. COPY OF THE BILL NO. 89509 DT. 15/12/04 FOR RS. 8,708/-

EXT.P4. COPY OF THE BILL NO. 85939 DT. 15/1/2005 FOR RS. 18,432/-

EXT.P5. COPY OF THE BILL NO. 69728 DT. 15/2/2005 FOR RS. 14,991/-

RESPONDENT'S EXHIBITS **NIL.**

True copy

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THOTTATHIL B.RADHAKRISHNAN, J.

WP(C) No. 13604 of 2005

Dated, this the 5th day of November, 2007

J U D G M E N T

This writ petition was moved for admission after a copy was served on the learned standing counsel for the Kerala State Electricity Board. On 03/05/2005, admitting the writ petition, the case was posted to 19/05/05 and an interim order was issued that "Ext.P2 will be considered and decision taken in the meanwhile". It is true that the petitioner failed to pay process and notice was not sent from this Court. But the fact remains that a counter affidavit has been placed on record. In May 2005, it is stated that Ext.P2 has not been received. Interim direction was not that Ext.P2 shall be taken up, considered and disposed of, if received and pending. This means that the officer bound by that order ought to have looked into Ext.P2 appended to the writ petition and taken a decision. This is because the issue in hand is on the question of the quantum of money due to the Board from the writ petitioner, on which he says that there had been an over payment. All that was required is to come to a final conclusion as to whether the petitioner is entitled to refund of any amount. The counter affidavit filed by the respondents also does not clearly answer the claims of the

petitioner. A detailed reply affidavit has also been placed on record.

2. In the aforesaid circumstances, this writ petition is disposed of directing that Ext.P2 as available along with the writ petition, shall be considered in the wake of the remittance claimed to have been made, as may be evidenced by the books of accounts of the Board as also the receipts, if any, that may be produced by the petitioner, and final decision shall be taken, as to whether the petitioner is entitled to any reimbursement or adjustment as claimed in Ext.P2. Such a decision shall be taken and communicated to the petitioner within an outer limit of four months from the date of receipt of a copy of this judgment. The petitioner or her authorized representative shall be given an opportunity of pre-notice in relation to the matter.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE.)

jg